

Miscellaneous Provision

Please refer to Chapter 24 for Section 144 to 174 of CGST Act 2017 & IGST' miscellaneous sections. Only few questions are given for practice.

Q1. Is there any condition that consideration must be received in foreign currency for deemed export goods?

Ans. There is no condition that consideration for goods notified as deemed exports must be received in convertible foreign exchange. The consideration may be received in Indian Rupees also.

Q2. Whether imported goods, supplied 'as such' qualify for deemed exports?

Ans. Only goods manufactured in India, which are notified by Central Government qualify to be treated as deemed exports. Thus goods notified u/s 147, if imported do not qualify as deemed exports, if they are supplied 'as such'.

Q3. Whether goods notified u/s 147, if manufactured in India from imported goods qualify for the benefit of deemed exports?

Ans. Provisions of Section 147 apply to 'goods manufactured in India'. There is no restriction that raw materials required for manufacture of notified goods must also be manufactured in India. Hence notified goods, if manufactured from imported goods would qualify as deemed exports.

Q4. What are the circumstances when assessment/ adjudication proceedings etc are not be treated as invalid?

Ans. As per Section 160, the following proceedings:

1. Assessment
2. Re-assessment
3. Adjudication
4. Review
5. Revision
6. Appeal
7. Rectification
8. Notice
9. Summons or
10. Other proceedings

done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall not be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any old law.

Q5. What are the circumstances when service of notice/ order etc shall not be called in question?

Ans. The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Q6. Who can rectify a mistake apparent on record U/s 161?

Ans. Any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document.

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Q7. Who has to bring the mistake apparent on record to the notice of the authority?

Ans. The GST authority:

1. On its own motion or
2. Where such error is brought to its notice by (a) Any officer appointed under CGST Act or (b) An officer appointed under SGST Act or (c) An officer appointed under the UTGST Act or
3. The affected person

can bring the mistake apparent on record to the notice of the respective authority.

Q8. Within what period should the mistake apparent on record be brought to the notice of the authority?

Ans. The time limit is 3 months but extendable to 6 months from the date of issue of such decision or order or notice or certificate or any other document. But in case of clerical or arithmetic mistakes, the 6 months outer limit is not applicable. Such clerical error must be due to accidental slip or omission.

Q9. What is the date, the notice/ order etc. is deemed to have been served?

Ans. Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in section 169 (1).

Q10. What if the notice/ order sent through registered post/ speed post is not received by the person to whom it is intended?

Ans. As per Section 169 of CGST Act 2017, when a decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Q11. What does the Anti-Profiteering Measure provision seek to do?

Ans. Anti-Profiteering measure seeks to pass on:

1. Reduction in rate of tax on any supply of goods or service
2. Benefit of input tax credit

received by supplier to the recipient by way of commensurate reduction in prices of goods or services.

Q12. What are the the duty of the Anti-Profiteering Authority?

Ans. Duties of Authority constitute:

- i. to determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices;
- ii. to identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;
- iii. to order,
 - a. reduction in prices;
 - b. return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;
 - c. imposition of penalty as specified in the Act; and
 - d. cancellation of registration under the Act.
- iv. to furnish a performance report to the Council by the tenth of the close of each quarter.